

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JAVIER MANZANO,

Plaintiff,

v.

ANDREW M. SAUL, *Commissioner of the
Social Security Administration,*

Defendant.

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EP-19-CV-00186-DCG

MEMORANDUM ORDER

Presently before the Court is United States Magistrate Judge Robert F. Castaneda's "Amended Report and Recommendation of the Magistrate Judge" (ECF No. 21) issued in the above-captioned action. Pursuant to 42 U.S.C. § 405(g), Plaintiff Javier Manzano brought the action, seeking judicial review of the final decision of the Commissioner of the Social Security Administration ("Commissioner") denying his applications for disability insurance benefits under Title II of the Social Security Act. In the amended Report and Recommendation, Judge Castaneda recommends that the Commissioner's decision be affirmed. Am. R&R at 13, ECF No. 21. Further, the magistrate judge warned:

Failure to file written objections to the proposed findings, conclusions and recommendations contained in the foregoing report, within fourteen days after being served with a copy of this report, may bar de novo determination by the district judge of an issue covered herein and shall bar appellate review, except upon grounds of plain error, of any unobjected-to proposed factual findings and legal conclusions as may be accepted or adopted by the district court.

Id. (capitalization omitted).¹ As the amended Report and Recommendation was issued on

¹ See also 28 U.S.C. § 636(b)(1)(C) ("Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court."); Fed. R. Civ. P. 72(b)(2) ("Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.").

January 30, 2020, any objection to the Report and Recommendation was due by February 13, 2020. To date, no objections to the Report and Recommendation have been filed.

When a party files timely written objections to a magistrate judge's report and recommendation, the district judge must "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). After completing its review of the report, the district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). As to other portions—that is, the unobjected-to portions—of the magistrate judge's report or when a party does not file written objections, the district judge applies a "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). A finding "is clearly erroneous if the court 'is left with the definite and firm conviction that a mistake has been committed.'" *Alphonse v. Arch Bay Holdings, L.L.C.*, 618 F. App'x 765, 768 (5th Cir. 2015) (quoting *Anderson v. City of Bessemer City*, 470 U.S. 564, 573 (1985)).

Here, the magistrate judge found that the Administrative Law Judge ("ALJ") did not err (1) in her weighing of the medical evidence; (2) in her weighing of the evidence related to Plaintiff's PTSD and other mental limitations; and (3) in her limited reliance on the medical expert. Because substantial evidence supports the ALJ's decision, the judge recommends that the Commissioner's decision be affirmed. Having carefully reviewed the Report and Recommendation, the Court concludes that these findings are not clearly erroneous or contrary to law, and the magistrate judge did not abuse his discretion. *See Wilson*, 864 F.2d at 1221, *supra*.

Accordingly, **IT IS ORDERED** that United States Magistrate Judge Robert F. Castaneda's "Amended Report and Recommendation of the Magistrate Judge" (ECF No. 21) is **ACCEPTED**.

IT IS THEREFORE ORDERED that the Commissioner's decision is **AFFIRMED**.

IT IS FINALLY ORDERED that the District Clerk **SHALL CLOSE** this case.

So **ORDERED** and **SIGNED** this 25th day of February 2020.

A handwritten signature in black ink, appearing to read "David C. Guaderrama", written over a horizontal line.

DAVID C. GUADERRAMA
UNITED STATES DISTRICT JUDGE